

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on March 3, 1999 at 3:02 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 130, 2/23/99, HB 391,
2/22/99, HB 444, 2/23/99
Executive Action: HB 391, HB 221

HEARING ON HB 130

Sponsor: REPRESENTATIVE ROBERT STORY, HD 24, Park City

Proponents: Ralph Peck, Montana Dept. of Agriculture
Pam Langley, Montana Agriculture Business Assn.

Bob Stephens, Montana Grain Growers
Scott Kulbeck, Montana Farm Bureau

Opponents: **None**

Opening Statement by Sponsor:

REPRESENTATIVE ROBERT STORY, HD 24, This bill basically extends the sunset date on the pesticide recycling program going in the Dept. of Agriculture. This program was started five years ago. The Dept. goes around the state in five regions, one region every year. Farmers and other people who have excess pesticides can schedule to bring them in, pay a small fee, and the Dept. will collect, package, and ship them off to be disposed of. The program was sunsetted to end in June 30, 1999. This bill extends the program for one more cycle so they can make one more trip around the state. There's reversion language in Section 1 and Section 2.

Proponents' Testimony:

Ralph Peck, Director of Montana Dept. of Agriculture, read written testimony. **SEE EXHIBIT(ags48a01)**.

Pam Langley, Montana Agriculture Business Assn., supports **HB 130.** Our Association represents pesticide dealers and commercial applicators for license in Montana. These dealers and commercial applicators have contributed roughly \$300,000 in fees to the program over the past five years. The pesticide dealer pays \$30 per year and the commercial pesticide applicator pays \$30 per year. Many of our members have both licenses so are paying \$60 per year for this program. Private applicators with restricted use licenses pay \$15 over the five year life of their licenses or \$3 per year. Montanans from both urban and rural areas of the state have benefitted from this program.

This program was our idea in the first place back in the early '90s because we saw a need to properly dispose of unwanted products so they did not end up in our ground or surface water. We worked with Gary Gingery and the Montana Dept. of Agriculture who was very supportive in developing the current collection program. Other Ag groups were also interested in supporting and instituting this program. The Dept. agreed to staff the program with EPA pesticide funding money in order to coordinate the program, thus freeing up fees paid to go directly into collection. To date, the funds have been used primarily to collect unwanted pesticides and not containers. This is because the Montana Agriculture Business Assoc. members were distributors, dealers and applicators who joined together in a

voluntary program to collect pesticide containers. The manufacturers in the program were voluntarily paying the cost of shredding plastic containers, recycling and disposing of the plastic and metal. Our support of the program is contingent on any money left over after five years going into continued collection of either unwanted pesticides or containers, not into the Dept. of Ag budget. Dept. of Ag officials have agreed this is what the money is collected for.

We were confused initially whether the amendment could go into this bill or needed to go into **HB 391**. **SEE EXHIBIT (ags48a02)**. Legislative Council determined the amendment needs to go into this legislation. Explained amendment. While we originally thought the program could be finished in five years, our members are supporting continuation of the program for another five years for several reasons. We're concerned that in the next five years we may have additional unused products in the state due to EPA's handling of the Food Quality Protection Act. EPA, with its interpretation of FQPA, actually may generate more unusable product because of its lack of using solid science and solid data in re-registering products. There is probably more unwanted or unusable product out there and with additional publicity we may be able to collect it, keeping it out of our landfills. It's a good environmental stewardship for all of us directly involved in agriculture as well as for all Montanans.

Bob Stephens, Montana Grain Growers, Montana Farmers Union, support **HB 130**.

Scott Kulbeck, Montana Farm Bureau Federation supports the voluntary recycling and disposal of pesticides and containers. This is a good program that provides incentives for producers to properly dispose of pesticide containers. That's positive for the landowner and his liability and also for the environment.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3.12}

Questions from Committee Members and Responses:

SENATOR MESAROS About how many calls do you receive internally as far as concerns of disposal of pesticides?

Gary Gingery, Montana Dept. of Agriculture, Each time we complete a district operation, people realize they should have come into the program but were hesitant. We don't keep an exact record so I'm giving an estimate of 15 to 30 calls per district, times five districts state wide. Some people thought if they entered the

program, they might get into trouble. But there is, in a sense, an amnesty provision in the law that says if you join in the program and stay with it, there will be no enforcement action taken against you for having illegal pesticides. Once they finally realize that, it's "Oh, I should have done it". We have several producers we know of who have considerable pesticides sitting in an old shed but were afraid to call up because it can't be used any more and they regret not having participated.

SENATOR TESTER Will this amnesty remain in effect with passage of this bill?

Gary Gingery Yes.

SENATOR EKEGREN Why do these pesticides become obsolete?

Gary Gingery One reason is EPA has cancelled the product and will not allow its use any more. While usually they give the provision that the holder of the compound can use it up in a period of time, in many cases we've gone beyond that time. Or the product has been damaged in some fashion and is difficult to handle in terms of application. In terms of the registration, say it was registered for one crop, it's not registered for that any more and the producer wants to get rid of it. There are quite a number of urban or suburban people who have something in the garage that's been sitting there for ten years. In some cases they don't even know what it does, but they know it's a pesticide.

SENATOR DEVLIN How much money are we looking at here? I know what the fees are but it doesn't say the total amount collected in a year.

Gary Gingery We collected \$158,245 from participants over the last five years. The Montana Dept. of Agriculture's cost share was \$285,347 for a total disposal cost of \$443,600. There are still unappropriated funds sitting in the account brought in from the fees that Ralph and Pam discussed. That's about \$106,000 that is earmarked for the disposal program.

Closing by Sponsor:

REP. STORY The program is needed yet and I would encourage you to support the extension of the termination date.

{Tape : 1; Side : A; Approx. Time Counter : 3.17}

HEARING ON HB 391

Sponsor: REPRESENTATIVE DON HEDGES, HD 97, ANTELOPE

Proponents: Pam Langley, Montana AgriBusiness Assoc.
Bob Stephens, Montana Grain Growers
Candace Payne, Women Involved in Farm Economics

Opponents: NONE

Opening Statement by Sponsor:

REPRESENTATIVE DON HEDGES, HD 97, HB 391 is a customer service type bill that does two things. One is putting the fine money in a special revenue account to be used for pesticide cleanup. Section 3, the customer service clause on restricted pesticides, allows the dealer to set up either a list or electronically transfer the license number for the customer requesting a restricted pesticide. With this system, a rancher could have his hired man pick up a pesticide in his behalf. If you're coming in with your spray cover all done and don't have your wallet along, you can still buy your pesticide through your dealer because he will have the number either on the list or electronically.

Proponents' Testimony:

Pam Langley, Montana Agriculture Business Assn, This legislation, grew out of a very lengthy discussion on the part of Montana AgriBusiness Assn. Pesticide Committee. Two years ago when we saw term limits coming, I suggested the Board go completely through the Pesticide Act and Rules and the Fertilizer Act and Rules and see if there were any changes that needed to made. About ten guys were very frustrated as they read the act from beginning to end. Then they went through the rules from beginning to end. These are the only two items they felt strongly should be changed.

Technically under law you're supposed to show your restricted use license every time you pick up a product, which is awkward for both the grower and the dealer. That's often not possible, probably doesn't happen and it's putting people in violation. We can't arbitrarily go into law and change it because whatever we do has to meet EPA approval. Therefore the rule making process for dealer verification of licenses so we can work with the Dept. over the next couple years and run any rule change past EPA to be sure it's OK. The Dept. was with us when we went through the laws and rules. It took them a full day to go through the law and a full day to go through the rules.

The Dept. has been frustrated because in cases in the pesticide cleanup where they don't know who the responsible party is, they

have not had funds to go ahead and get it cleaned up. This puts about \$5,000 a year collected in penalties in the pesticide program. Instead of going into the General Fund, it would place them back into a fund to be used for clean up, which we think is a good thing environmentally.

Bob Stephens Montana Grain Growers, Montana Farmers Union,
support HB 391,

Candace Payne, Women Involved in Farm Economics, Our policy encourages education on pesticide use and safety practices for all users. We particularly like the part of this bill allowing the dealer to have a list or electronic device for verifying the fact you have your license.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 3.23}

Questions from Committee Members and Responses:

SENATOR JERGESON One of the theories about penalties being deposited in the General Fund rather than a special revenue account is so you don't let the enforcers benefit from overzealous enforcement of the law in order to raise money for their operation. Have you considered whether that would be a problem?

Pam Langley We did discuss that early on. They can't pad their Department budget for additional staff, etc., because it goes into cleanup as opposed to building any kind of a bureaucracy. The Dept. of Ag has had a record of working with people in terms of compliance as opposed to fining them.

SENATOR HOLDEN On page 3, lines 2 through 6, does a farmer or rancher that's using some restricted pesticide need a license and what would be the cost to him?

Gary Gingery This is called the farmer permit. The total permit is \$50.00, but \$15 of that is just the licensing which is good for a five year period. The rest is for the disposal program and a certain sum that goes to the Extension Service so they can conduct what's called the EPA Certification Program.

SENATOR HOLDEN I'm wondering what you have in mind as far as lines 3, 4 and 5 with the rule making authority that's written in there.

Gary Gingery Currently it's required the person with a license or permit has to reveal it before the final sale and possession of that restricted use pesticide can be transferred from the dealer to the applicator. If EPA allows, this would set up an electric system where the dealer could call a number and determine if a person is licensed or permitted, or we could send them a list that's current as of a given calendar year. Working off that would be enough verification of a legal sale to the purchaser. A lot of farmers will call their dealers and ask for a chemical. Someone has to pick up the chemical at the dealer, or in some cases the dealer will deliver. A lot of times the person with the card is not available and it has caused problems for both the dealers and applicators.

SENATOR HOLDEN With all these kinds of bills I've seen over the years that deal with electronic verification process, \$4,000 doesn't seem like much of a fiscal impact. Maybe there's more hidden cost that's not recognized in the Fiscal Note.

Gary Gingery Almost \$5,000 is strictly for cleanup. As an agency we would assume those costs of the electronic part within the existing budgets, at least at this point. I can't say two years from now if there's a significant impact on the electronic transfer information. In our conversations, at this time we can manage the system without asking the Legislature for further authorization.

SENATOR HOLDEN Is it the Dept.'s opinion that there are a lot of disgruntled farmers who want this electronic filing system put in place. Do you get tons of complaints on this?

Gary Gingery Most of the issues are from dealers finding it frustrating making sure their employees can connect with the farmer or rancher who wants to buy the restricted use pesticide and verify the license. I hear more complaints from dealers than from farmers, but I'm sure they're complaining to the dealer and then we hear the complaint.

SENATOR MESAROS I have a restricted use license. If I have an employee pick this up, would I have to register employees or verify employment?

Gary Gingery In addition to issuing you a card, currently we would also issue two additional cards for family members or employees. That card would say you are the certified applicator, but these people are allowed to purchase and use under your supervision. That's helped to a degree but hasn't fully solved the problem. We have to be able to prove to EPA that there's a validation of your employee or family member picking it up;

that's where it gets a little sticky. To be honest, we don't have that fully worked out but it's a good endeavor.

SENATOR BECK Correct me if I'm wrong, this is a different permit than an applicator's permit.

Gary Gingery A farm or ranch applicator has to have a permit to purchase a restricted use pesticide. They must reveal that permit to the person they're purchasing their pesticide from. This would potentially put a list in the hand of the dealer that says this John Doe is a qualified farm applicator or commercial or government applicator. Because of that you can go ahead with the transaction because it's already verified that they have a currently licensed permit.

SENATOR BECK I'm in the legislature when they have their class to redo the pesticide license. What's the possibility of giving this course over the computer once in a while and could one pick that up on the internet?

Gary Gingery It is an open book test now. You can take the test anytime you want and on recertification you can do the same thing again if you don't get your requalification credits. To be quite honest, I don't think we or the Extension Service have discussed the issue of setting something up on the Internet and have the person take the test, still open book, if they miss this training and requalify. I see no reason why that wouldn't be a very good endeavor to look into.

SENATOR BECK I know it's an open book test, that's why I'm asking about the possibility of doing it on the internet maybe once a month.

Gary Gingery I think we might have enough discretion under pesticide law authorized by the legislature to go that route. The one caveat is that whatever we set up, we'd still need to get EPA approval. I see no reason we couldn't set up a system that would satisfy EPA in that light.

SENATOR BECK Is it \$50 to me as an applicator license right now?

Gary Gingery It is now because of the disposal program and also the amount of money that goes to the Extension Service to conduct the certification training for farmer applicator. I believe that's \$20, five of which is retained at MSU for the specialist; the rest of the money goes directly to the county agent so they get assistance in conducting this training. When the disposal

program ends, it will be reduced by \$15.00. That is the fee for a five year period.

SENATOR BECK I notice that you knocked out Section 4. Was that done in the House or did you start out that way in the bill?

Gary Gingery The bill was written that way because we in the industry agreed something needed to be done as spelled out in Section 4. It deals with biodegradation of pesticides. When you have soil contaminated with 2-4-D, if we allow land spreading methods that are available to the plants, that's a beneficial use and our agency and DEQ say that's fine. The scientists at MSU and other places tell us that 2-4-D incorporated in the soil that way is not available to plants, so it won't be able to control weeds. We know it will degrade and what we were trying to do is open up this a little bit more. Common sense tells you if you take 2-4-D contaminated soil, spread it out at the label rate or less, there should not be a problem. The system, under the Hazardous Waste Laws of the Feds and our State, won't allow it because there is no beneficial use. We're trying to get it changed so beneficial use and degradation will be considered, because 2-4-D will degrade in about four weeks in most circumstances. We can't do that because it will affect the primacy that DEQ now has with EPA on hazardous waste. They made the commitment to the industry that over the next two years they'll work with us and the industry to try to resolve this issue, because they realize it's a little ridiculous that you can't landfill 2-4-D. I presume we'll be back in the next session to try to correct this issue.

SENATOR TESTER You talked about degrading the 2-4-D. When I look at a and b, for example, I don't see where they're talking about that. B, in particular, I think talks about handling and transporting pesticides with food. I remember a specific example on the border, some folks got in real trouble for.

Gary Gingery What's happening because of this dilemma with DEQ is that section of law is not being amended now. Otherwise that section of law will stay on the books. As now written, it will stay on the books.

CHAIRMAN JABS Part of this fee is returned back to the county agent. Does that go to the University system first?

Gary Gingery The flow of the money at this time is to the University. The University will receive bills from the County Agents for their programs and pay those bills, or send the money for the county to pay the bills. One county, which I believe is Big Horn, insisted they have the money go to their county. Dept.

of Agriculture's position is whatever the Extension Service between the counties and the main office wanted to set up was fine with us, as long as they could guarantee to us the \$15.00 that originally came out of that county would always get back to that county for this purpose.

Closing by Sponsor:

Rep. Hedges In terms of the electronic listing part, I envision that as a computer download to the dealers' computers.

{Tape : 1; Side : A; Approx. Time Counter : 3.41}

HEARING ON HB 444

Sponsor: REPRESENTATIVE BILL THOMAS, HD 93, HOBSON

Proponents: John Mundinger, Montana Stock Growers
Jim Raths, Montana Assn. State Grazing Districts
John Schultz, Montana Assn. State Grazing Districts
Scott Kulbeck, Montana Farm Bureau
Marla Jean Murray, Montana Cattlewomen
Jim Peterson, Montana Stock Growers Assn.

Opponents: NONE

Opening Statement by Sponsor:

REP. BILL THOMAS, HD 93, HB 444 involves cattle, grass and history. To better understand this bill, we need to know the trails we took to get where we are today. In the early days of development of the west, it became apparent in order to protect the native grazing lands so vital to the livestock industry, some plan of organized utilization was needed. Range wars, cattle barons, sheep men's rights, and guns were and shall always remain a treasured part of Montana's history. Civilization and organization prevailed, and in 1928 the first grazing association was formed. This was a forerunner of the Federal Taylor Grazing Act in 1934, which provided for the creation of grazing districts on one hundred forty two million acres of public land.

The Taylor Grazing Act was limited for use in Montana because of the checkerboard pattern of federal, state, county and private lands. Grazing districts needed some measure of control over these checkered lands for livestock operations to be successful. Hence the formation of the Montana Grass Conservation Act of 1939. This law established the purpose, power and procedures for operating 26 grazing districts on lands of such diverse

ownership. Today there are 28 grazing districts in seventeen counties with approximately one thousand rancher members. They graze approximately 250,000 head of livestock on ten million acres of land. The little map I passed out shows the fairly significant part of Montana that grazing districts affect and that grazing districts cover to the benefit of the people and the land both. SEE **EXHIBIT (ags48a03)**. The original 1939 Montana Grass Conservation Act is still in effect today. However, there have not been needed amendments to the original act. The executive reorganization in 1973 and again in 1995 had pronounced affects on the operations of Montana grazing districts which today are under the direction of Director of a Division of Natural Resources and Conservation.

HB 444 is the result of **SB 326** from the 1997 Legislature which called for a study and recommendations concerning the grazing districts. This bill is about re-establishing the Montana Grass Commission, it is about a friendly separation between DNRC and the management of grazing districts. It is about a more user friendly government.

Proponents' Testimony:

John Mundinger, Montana Stock Growers Assn. The recommendation to re-establish the Grass Commission is the product of an interim study that was authorized by **SB 326** during the last session. Often interim studies, because they give you the time for more deliberative look at a particular issue, result in some constructive legislation. That circumstance also applies in the case of **HB 444**. There's been a group of people working on this issue for two years, studying the concerns that **Rep. Thomas** mentioned. The study commission concluded there is an ongoing need for all the state grazing districts in terms of maintaining an equitable allocation of rangeland in these areas with mixed ownership and also an equitable allocation of the responsibility to conserve that rangeland.

Through the reorganization in state government, one of the things lost is an oversight and coordination function at a higher level with the individual grazing districts that would ensure some consistency in the way those grazing districts operate and the coordination between the grazing districts and the state and federal agencies. The primary purpose for re-establishing the grass commission is to provide that oversight and coordination role.

I would point out **HB 444** is simpler than the 16 or 17 pages it took to print it. The heart of the bill is on pages 15, 16, 17, sections 33 and 34 that authorize the re-establishment of the

Grass Commission and define the role and responsibilities of the Commission. The remainder of the bill is clean up and updating of language in some of the existing sections in the Grass Conservation, given the fact that the Commission will be established by these latter sections. I will bring to your attention that we had a couple of people who worked on this advisory commission, Jim Rathes and John Schultz.

Jim Rathes, Montana Assoc. of State Grazing Districts, Chairman of the Study Commission of SB 326, The function of the grazing districts is coordination with federal and state agencies to effectively manage the range to the betterment of the range, and represent permittees in the use of that resource. That mission has not changed at all. What was valid in the '30s is still our mission today. I think we have a tool we can use to take us into the future. It's up to our membership to use it wisely. He listed the names of the members of the Study Commission.

John Schultz, Montana Assoc. of State Grazing Districts, One of the most important things is it will be a stronger unit, able to confront adverse political views aimed at (sneeze) multiple use concept of federal land. I think this is one thing we have to strive for. A lot of these groups are trying divide up these federal lands and create wilderness areas.

Scott Kulbeck, Montana Farm Bureau Federation, Montana Farmers Union, support HB 444.

Steve Schmitz, Department of Natural Resources and Conservation, read written testimony. SEE **EXHIBIT**(ags48a04).

Marla Jean Murray, Montana Cattlewomen would like to go on record as supporting this bill.

Jim Peterson, Montana Stock Growers Assoc., I want to point out this commission met eight different times over the last two years and their report was presented to the membership of the Montana Association of Grazing Districts, the Montana Public Lands Council and the Montana Stock Growers Assoc. That membership reviewed the commission's report and that's what you have before you. The point being that a lot of folks looked at this and concurred with this report.

{Tape : 1; Side : B; Approx. Time Counter : 3.57}

Opponents' Testimony:

Questions from Committee Members and Responses:

SENATOR JERGESON How can you lower the assessment from fifteen cents per animal unit to five cents and not have a revenue impact?

Steve Schmitz The statute changes the units of the assessment. The maximum assessment allowed under law now is fifteen cents per animal unit which is basically a grazing season. The change would be to a maximum of five cents per animal unit month. The conversion is roughly a factor of eight, so it provides a higher fee authority that the commission could levy. The legislature would have to appropriate those funds to DNRC through the process. Currently the \$12,000 figure I gave is the level of fee authority that would be allowed.

SENATOR JERGESON Has this program had General Fund support previously?

Steve Schmitz Not in my ten years with the Dept. We have operated under the grazing district fees and, in fact, had a case where auditors suggested we stay within the revenue generated by the fees.

SENATOR BECK If we were to take out the contingency voidance clause, which is not necessary now, that would be classified as an amendment and would still have to go back to the House?

Doug Sternberg It would, it's a technical change. I do have an amendment prepared that would strike Section 36. **SEE EXHIBIT (ags48a05)**.

SENATOR BECK If we left it in, it could go directly to the Governor.

Doug Sternberg I've been directed by Mr. Petesch to try to clean up voidness things that were built into a lot of these departments, for codification purposes and clarification when we get compiling all this. I've been directed to make it as clean as possible.

CHAIRMEN JABS You've turned the administration part over to this Commission. Does the Dept. have the final say, do they have to approve everything done?

Steve Schmitz If **HB 444** passes, the Commission would be established and would have full policy authority within the bounds of the statute. The Director, Governor, Administrative link would not have policy oversight. We would be there similar to what is set up for the Water Rights Compact Commission to provide budgetary functions.

Closing by Sponsor:

Rep. Thomas Folks I worked with in representing the livestock industry and also the DNRC have all been most helpful and its really been a pleasure to do this. There's one man who is not here today who was my original mentor in this, Jason Campbell. He's gone on from Montana to Washington, D.C. and he's with the National Livestock Association there. **SENATOR DEVLIN** has agreed to carry this bill to the Floor of the Senate.

{Tape : 1; Side : B; Approx. Time Counter : 4.02}

EXECUTIVE ACTION ON HB 391

Motion/Vote: SEN. BECK moved that HB 391 BE CONCURRED IN. Motion carried 8-0.

EXECUTIVE ACTION ON HB 130

SENATOR BECK This one has contingency voidness language in it too. Would that go back to the effective date then?

Doug Sternberg The effective date on this one was always contingent on approval by the electorate. In cleaning up the language on page 2, I took the liberty of putting an immediate effective date for the extension of the program, so as soon as the Governor signs off on it, the termination date would be automatically extended. You'll see that in amendment three. I took out the contingency language in subsection 2. **SEE EXHIBIT (ags48a06)**. The effective date doesn't have to be immediate, it could be up June 30 of 1999.

Motion/Vote: SEN. BECK moved that **AMENDMENT HB013002.ADS BE ADOPTED**. Motion carried unanimously.

Doug Sternberg explained the Pam Langley amendment. In section 2, under the original language, any remaining funds after the program terminated were going to revert to the pesticide management account in 80-8-116. These amendments would strike the language that reverted those funds and rather provide a specific provision for the expenditure of any remaining funds. You can see in number three that those would be used by the Dept. of Agriculture to cover any further costs associated with waste pesticide and pesticide container collection, disposal and recycling until the balance is expended. Rather than having it go into the Dept.'s general pesticide management account once the program terminates, under this amendment the Dept. would use any

remaining money in that account on any associated costs until that balance is gone.

Motion: SEN. DEVLIN moved that **AMENDMENT HB 013001.ADS BE ADOPTED.**

SENATOR TESTER In 2003, if there's \$50,000 left over, the Dept. can still continue with the program.

Doug Sternberg Under the amendment, the Dept. would continue to use that money in that account for ongoing purposes related to the program. The program would no longer exist.

SENATOR JERGESON If the revenue is derived when the farmers pay their share of the cost, and the other part is from dealers, for the farmers to participate, they have to do a cost share. If the program runs out in 2003, how are they going to be accessed a cost share to use up this balance? Are we going to have some people who wait past 2003, come in and demand they receive assistance in disposal and avoid the cost share they're required to do now. We can make the assumption the additional revenue generated from that portion which the retailers and distributors are contributing to the program, because it is based on an assessment, not on a per waste disposal fee. Who is going to use what's left to have their waste disposed of and might there be a way to amend this so they'd gain a cost share from a producer to match it.

Pam Langley What we want is while they won't be able to collect fees anymore, the cost share continues as is. It doesn't matter if it's a dealer, commercial applicator or private applicator. This money goes into one pool and that's the way it works now. It all goes in and pays for 64% of the programs. That 64% of the program will continue to be there for future collections until it runs out.

SENATOR JERGESON Under this program, if I bring in an old barrel of soil sterilant, it's weighed and I'm assessed a fee to pay for that. The program somehow matches it so it can be disposed of. After 2003 there's a remaining balance which essentially comes from the assessment on the product sold. Theoretically what I paid to dispose of that barrel was used to dispose of it. There's no balance left from that transaction. The only balance in this account is left from the assessment on the sales of product. After 2003, I come in with my barrel. I don't see anything here that requires me to pay my portion.

Pam Langley That's our intent to do that. I thought it was clear but maybe it isn't.

SENATOR DEVLIN I think we could use a couple days here. We could use it to stop the fees coming in at this date and have it worded in here that the program would continue on until funds have been expended.

Pam Langley That was our intent.

Doug Sternberg If we said cover any former program costs.

SENATOR JERGESON I think what you would be doing in 2003 is stopping the fees on the sale of the product, but the provisions in here related to cost share and disposal would continue until any unexpended balance had been used up.

SENATOR DEVLIN withdrew his motion.

Doug Sternberg will redraft a motion to clarify disposal fees will continue until all funds are expended.

{Tape : 1; Side : B; Approx. Time Counter : 4.17}

EXECUTIVE ACTION ON HB 444

Motion/Vote: SEN. BECK moved that **AMENDMENT HB044401.ADS BE ADOPTED. Motion carried unanimously.**

SENATOR TESTER Is it wise to drop this fifteen cents to five cents and pull money out of the General Fund.

SENATOR BECK It gives it more money. They're going to animal units per month instead of animal unit for the whole season.

Doug Sternberg It still doesn't raise enough money to manage the program so they had to pull \$45,000 from the General Fund. It doesn't include it on the fiscal note, but I understand **HB 2** included an appropriation from the General Fund.

SENATOR DEVLIN It's part of the Governor's budget.

SENATOR BECK It will reflect in **HB 2** but it's not in this bill. This bill does not have any of that \$45,000 in it.

SENATOR TESTER If this bill is working the grazing districts differently, setting up the commission, doesn't this bill stipulate there's going to be funds needed?

SENATOR BECK We're changing it to the commission in this bill. A whole separate issue is in **HB 2** for funding for this commission. It will reflect in **HB 2**.

SENATOR TESTER If the \$45,000 gets pulled out of **HB 2**, there's no funding to do this program.

SENATOR JERGESON If there's 225,000 head of cattle in it, in six months that generates \$67,500. If they're only planning to generate the same \$12,000, they're charging a penny an aum. I believe 5 cents an aum will raise \$30,000.

SENATOR BECK What you have in this bill is the authority to charge up to five cents per animal unit. That doesn't say you have to do it. I understand if you got the \$45,000 in **HB 2**, you would probably only levy a cent or something like that in this bill.

Steve Schmitz The \$12,000 is what we levy now. We were thinking of increasing it to \$18,000 which would be about three cents per animal unit month.

SENATOR BECK So they have room in there to go another two cents if they have to, plus the animal unit months.

Steve Schmitz The Dept. has an appropriation for fees for two things. I mentioned the \$12,000 figure because we levy ten cents per animal unit in fees and that generates approximately \$12,000. In addition there's a small language appropriation we have that allows us to collect up to \$15,000 per year. That's the limit right now, controlled by the appropriation process of the legislature. Maximum is \$15,000 that either DNRC, if **HB 444** doesn't pass, or this commission through DNRC, can collect. Even though the five cents could generate more, the appropriation process limits the amount of revenue that can be expended to \$15,000 each year. At the request of the Association, the Executive put in \$45,000 requested from the General Fund to help this commission get up and running. They have this appropriation for two years, per year.

SENATOR BECK Per year, a total of \$90,000.

SENATOR DEVLIN I don't understand. You say you're only getting \$12,000 but there's 250,000 head of cattle and you said you're charging ten cents a head. How much is that?

Steve Schmitz Ten cents per animal unit now. The Stevens Administration, in the '91 Legislation session, directed us to raise the fees to ten cents per animal unit. We're basically

collecting that as being reported to us from the 26 active grazing districts. (Change Tape).

SENATOR BECK There's 250,000 head of cattle in here. If you assessed each one of the grazers just \$1.00 a year, you've raised \$250,000. The cattle business isn't all that great, but neither is the General Fund of the State of Montana. I wonder if, before we send this bill out of here, we can make some changes so they can at least generate it from the district association in case it fails in **HB 2**.

Steve Schmitz I think there's more on the order of 120,000 to 130,000 of animal units. To get animal unit months, we think the conversion factor is about eight. So that would be about 960,000 aums. If you're going to figure any collections, any fees from the grazers, my recommendation is you use that as a basis to calculate your fee. I'll let you work it out with the grazing districts. I feel more comfortable with those numbers.

SENATOR BECK The fee you expect to raise here now is \$12,000 annually plus the \$45,000 from the General Fund. That's approximately \$57,000 annually. I'd like to hold this bill until our next Executive Session. Maybe we can work something out on those fees. There's a chance it might be taken out of General Fund before we get done here. You want to get this commission going. It might have to be on a user fee basis.

SENATOR DEVLIN I agree we should take a look at this because I didn't think there was this kind of General Fund hit. I don't want it to go into the General Fund.

{Tape : 1; Side : B; Approx. Time Counter : 4.29}

EXECUTIVE ACTION ON HB 221

Doug Sternberg In reviewing this bill, I noticed when the House amended the bill on page 2, they neglected to also correspondingly amend the title. Also the sentence they ended up with is a little convoluted. In order to clarify the title and make the title correspond clearly with the amendment that's already been added, I put together a technical amendment to correct the title and on lines eight through ten and also on page two, lines ten and eleven to just rearrange a couple of words to make that sentence read a little more correctly. **SEE EXHIBIT (ags48a07) .**

Motion: **SEN. BECK** moved **AMENDMENT 22101.ADS.**

Doug Sternberg The change in amendments two and three are substantive changes but will clean up the language.

Vote: Motion **carried unanimously.**

SENATOR MESAROS I have a note of an amendment on the effective date.

Doug Sternberg **SENATOR HALLIGAN** raised an issue during the hearing regarding the penalty provision, possibly delaying the implementation of subsection 3b, which is the penalty provision. That's not included in the amendment you just adopted.

SENATOR HALLIGAN When you have misdemeanor provisions in a bill, it's not good policy to put in special provisions. If you want it to be a misdemeanor, let it be a misdemeanor.

SENATOR BECK I move we put the misdemeanor code in there.

Doug Sternberg So the affected amendment then, I'll add some language on page 2, line 22, except as provided in subsection 2, this act is effective upon passage and approval, and then I'll say "subsection 3b is effective October 1.

SENATOR DEVLIN You wouldn't even need to have that last section. It goes into effect automatically October 1.

Doug Sternberg Just strike the effective date in its entirety? That would do the same thing. It wouldn't have the weed districts this summer being able.

SENATOR HALLIGAN 3b would be effective 10/1. The second or subsequent offense issue I don't mind. As long as the original misdemeanor language is the same, you can leave the second or subsequent the same.

Doug Sternberg Just for clarification, I'll make subsection 3b effective October 1. Clarify sub. b, is guilty of a misdemeanor is all it would have to say. **SEE EXHIBIT(ags48a08).**

SENATOR TESTER You need to also include to assess the cost of weed control, in addition to the misdemeanor.

Motion/Vote: **SEN. HALLIGAN** moved that **AMENDMENT TO SB 221 BE ADOPTED.** Motion **carried unanimously.**

Motion/Vote: **SEN. JERGESON** moved that **HB 221 BE CONCURRED IN AS AMENDED.** Motion **carried unanimously.**

SENATOR JERGESON to carry **HB 221** to the Senate.

ADJOURNMENT

Adjournment: 4:42 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags48aad)